

Court of Appeals Case No. 25-6536

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTHE CIRCUIT**

**TODD R.G. HILL,
Plaintiff and Appellant**

vs.

**THE BOARD OF DIRECTORS, OFFICERS AND AGENTS AND
INDIVIDUALS OF THE PEOPLES COLLEGE OF LAW *et al.*,
Defendants and Appellees**

Appeal from the United States District Court
Central District of California
District court Case No. 2:23-cv-1298-JLS(BFM)
Hon. Josephine L. Staton, United States District Judge
Hon., Brianna Fuller Mircheff, United States Magistrate Judge

APPELLEE’S BRIEF OF APPELLEE SPIRO

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STATEMENT OF ISSUES PRESENTED FOR REVIEW

1. Whether the District Court committed prejudicial error in dismissing with prejudice the RICO claim of Plaintiff/Appellant (referred to as Plaintiff below).
2. Whether the District Court committed prejudicial error in dismissing Plaintiff's state law claims without leave to amend, and with leave to file in state court.
3. Whether the District Court committed prejudicial error in not allowing Plaintiff to file his Proposed Fifth Amended Complaint and his Corrected Proposed Fifth Amended Complaint.
4. Whether the District Court committed prejudicial error in denying five of Plaintiff's requests for judicial notice, namely 5-ER-138-250, 4-ER-97-177, 4-ER-2-96, 5-ER-21-40 and 5-ER-3-20.
5. Whether the District Court committed prejudicial error in denying Plaintiff's F.R.C.P. 59(e) Motion to Alter or Amend Judgment.

STATEMENT OF THE CASE

A. FACTS RELEVANT TO ISSUES SUBMITTED FOR REVIEW

Plaintiff Todd R.G. Hill was a student at defendant Peoples College of Law (PCL), located in Los Angeles. Plaintiff did not complete his J.D. studies at PCL, but he obtained a J.D. degree from another law school. The State Bar terminated PCL's status as a law school in 2024. Defendant Ira Spiro was the dean of PCL. In the District Court, Plaintiff sued the State Bar and many of its officials and staff members, and PCL and many of its former directors and officers, including Defendant Spiro. According to Plaintiff, PCL violated many of State Bar's rules governing law schools, and he alleges that the other Defendants participated in these violations or are in some way liable for them. Plaintiff alleges that as a result, he sustained economic and non-economic damages. (It is extremely difficult to write a concise yet thorough statement of the facts, given that the initial complaint is 402 pages without appendices and other additions.)

B. RELEVANT PROCEDURAL HISTORY

Plaintiff's initial Complaint was filed in February 2023. The District Court sua sponte dismissed it with leave to amend, finding that it violated Rule 8 of the Federal Rules of Civil Procedure. Plaintiff filed a First Amended Complaint, and it, too, was dismissed sua sponte for violating Rule 8. The District Court, adopting in large part a Report and Recommendation by the Magistrate Judge, dismissed the Second Amended Complaint with leave to amend, in part without prejudice because of Rule 8 violations, and in part with prejudice. Plaintiff filed a Third Amended Complaint. The District Court, adopting in large part a recommendation of the Magistrate Judge, dismissed with prejudice most of Plaintiff's federal claims as well as all Defendants associated with the State Bar of California. Plaintiff filed a Fourth Amended Complaint. All defendants moved to dismiss. The District Court dismissed the one remaining federal claim (a RICO claim), and dismissed the

remaining claims, which were state law claims, without leave to amend but with leave to file them in state court. Plaintiff filed a motion under F.R.C.P. 59(e). The District Court denied that motion. Plaintiff also submitted two different Proposed Fifth Amended Complaints in motions to amend, which were denied.

Plaintiff submitted many requests for judicial notice. Five were denied.

C. RULINGS SUBMITTED FOR REVIEW

The rulings Plaintiff has submitted for review are as follows. Defendant Spiro does not seek review of any ruling by the District Court.

1. Judgment (**terminating case**) (1-ER-10, ECF 359)
2. Order Adopting Magistrate Judge's Findings and Recommendations in Part, Denying Requests for Judicial Notice and Leave to Amend, and **Dismissing Action** (1-ER-11–13, ECF 358)
3. Order Denying Plaintiff's Rule 59(e) Motion to Alter or Amend Judgment (1-ER-2–9, ECF 365)
4. Order Accepting Interim Report and Recommendation re Third Amended Complaint (1-ER-40–42, ECF 248)

D. SUMMARY OF THE ARGUMENT

- (1) There is no prejudicial error and Plaintiff does not even argue there was.
- (2) The District Court was correct in dismissing the RICO claim with prejudice, because Plaintiff's many complaints all failed to state a RICO claim.
- (3) The District Court was correct in dismissing the state law claims without leave to amend, but with leave to file them in state court. Plaintiff filed five complaints and proposed two others, but in all of them Plaintiff failed and refused to amend his complaints to cure their defects.
- (4) The District Court had discretion whether to allow judicial notice, and did not abuse that discretion in denying Plaintiff's requests for judicial notice.

- (5) The District Court was correct in denying Plaintiff's Rule 59(e) motion. Plaintiff's only argument on this was that the Court did not make a de novo review, but the Court satisfied that requirement.

STANDARDS OF REVIEW

1. **ISSUE:** Whether the District Court committed prejudicial error in dismissing with prejudice the RICO claim of Plaintiff/Appellant (referred to as Plaintiff below).

STANDARD OF REVIEW – DE NOVO. The RICO claim was dismissed because plaintiff's amended complaints failed to state a claim under RICO, therefore the standard is de novo review.

2. **ISSUE:** Whether the District Court committed prejudicial error in dismissing Plaintiff's state law claims without leave to amend, and with leave to file in state court.

STANDARD OF REVIEW – PARTLY ABUSE OF DISCRETION

AND PARTLY DE NOVO: Whether to give leave to amend is reviewed for abuse of discretion. (*Allen v. City of Beverly Hills*, 911 F.2d 367, 373 (9th Cir. 990) "We review a denial of leave to amend for abuse of discretion.") The District Court's decision that the state law claims were to be filed in state court was based on Court's determination that after dismissal of all federal claims, the Court had no jurisdiction over the state law claims. That jurisdictional determination was based on the pleadings alone, and thus was a question of law, reviewed de novo.

3. **ISSUE:** Whether the District Court committed prejudicial error in not allowing Plaintiff to file his Proposed Fifth Amended Complaint and his Corrected Proposed Fifth Amended Complaint.

STANDARD OF REVIEW -- ABUSE OF DISCRETION: *Allen v. City of Beverly Hills*, 911 F.2d 367, 373 (9th Cir. 990).

4. **ISSUE:** Whether the District Court committed prejudicial error in denying five of Plaintiff's requests for judicial notice, namely 5-ER-138-250, 4-ER-97-177, 4-ER-2-96, 5-ER-21-40 and 5-ER-3-20.

STANDARD OF REVIEW – ABUSE OF DISCRETION: *Lawyers For Fair Reciprocal Admission v. Timmer*, 788 F.Supp.3d 1000, 1011 (D.Ariz., 2025), quoting Notes of Advisory Committee on Proposed Rules, Fed. R. Evid. 201(c)(1).

5. **ISSUE:** Whether the District Court committed prejudicial error in denying Plaintiff's F.R.C.P. 59(e) Motion to Alter or Amend Judgment.

STANDARD OF REVIEW – ABUSE OF DISCRETION: *Fuller v. M.G. Jewelry*, 950 F.2d 1437, 1441 (9th Cir. 1991).

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I. SHORT STATEMENT OF FACTS

Peoples College of Law (PCL) opened in 1974 and operated for more than 40 years. It was founded as a joint effort by the Asian Law Collective, the National Conference of Black Lawyers, the La Raza National Students Association, and the National Lawyers Guild. It was located at 660 S. Bonnie Brae St., in a very low income neighborhood just west of downtown Los Angeles. PCL's goals included training advocates for human rights, tenants rights, women's rights, gay rights, consumer rights, workers' rights. In aid of these goals, PCL's tuition was extremely low, \$4000 per year during its final several years. That was possible because all of its faculty, corporate directors, officers and all staff, including the dean, were unpaid volunteers (except the administrator – the State Bar required that position to be paid.)

Plaintiff Todd R.G. Hill was a student at PCL from the fall of 2019 to 2022. He did not complete his J.D. studies there, but since then he obtained a J.D. degree, according his Opening Brief (p. 1, fn. 1). Also, he is the author of a 508 page book titled *Hill's Annotated Holmes: The Common Law Reinterpreted* (this information about the book is from the Amazon website ¹).

¹ The Amazon link is https://www.amazon.com/Hills-Annotated-Holmes-Reinterpreted-Integration-ebook/dp/B0DTJY3R38?crid=35U44RUZBDLH7&dib=eyJ2IjoiMSJ9.Q7Crg5-rf0o_QdytGhM11EhUuWIkYMzSGKykZfbHN37GjHj071QN20LucGBJIEps.fvNlM6zdCbfaOSzCt7pn5THXmjuOPNwnS2veVZrQM1c&dib_tag=se&keywords=Todd+Hill+holmes+common+law&qid=1765050670&s=books&sprefix=todd+hill+holmes+common+law%2Cstripbooks%2C146&sr=1-1

Defendant Ira Spiro has been a California lawyer for nearly 50 years, admitted to the California Bar in January 1976.² Plaintiff sued him by his full birth name, Robert Ira Spiro. He was a PCL faculty member from 2012 to 2017, and again in the 2021-2022 academic year. He was dean from 2017 to 2021.

II. PREJUDICIAL ERROR IS A REQUIREMENT FOR REVERSAL OF A DISTRICT COURT DECISION.

It is fundamental that a district court's decision will not be reversed on the grounds of error by the lower court unless the lower court's decision would have been different had it not made the error. That is the principle of prejudicial error, also called reversible error.

For example in *Orr v. Bank of America*, 285 F.3d 764, 773 (9th Cir. 2002), it was argued that the district court had abused its discretion. The Court of Appeals held: “[w]e must affirm the district court unless its evidentiary ruling was manifestly erroneous and prejudicial.”

In *Smiddy v. Varney*, 665 F.2d 261, 265 (9th Cir. 1981, disapproved on other grounds in *Hartman v. Moore*, 547 U.S. 250 (2006)), the Ninth Circuit held: “Our standard of review is that we will reverse a judgment because of a mistake in jury instructions only if the error was prejudicial.”

² That is shown on the State Bar of California website, <https://www.calbar.ca.gov/>)

III. PLAINTIFF IGNORES THE REQUIREMENT OF PREJUDICIAL ERROR AND THUS FAILS TO ARGUE THAT ANY ERRORS BY THE DISTRICT COURT WERE PREJUDICIAL.

Plaintiff and Appellant Hill (“Plaintiff” below) does not even attempt to show that if the District Court had not made the supposed errors he claims, the District Court would not have dismissed his case. In other words he makes no attempt to show prejudicial error, or even prejudice.³ He does not even ask for reversal. Instead, he asks for “limited remand for clarification and proper analysis under *Foman* and *Lopez*.” (Brief, p. 54, end of first paragraph.)

In fact, the word “prejudice” does not even appear in his brief, except in passages that have nothing to do with whether the District Court committed prejudicial error.⁴

³ There might be one exception, where Plaintiff discusses his equal protection claim (pp 52-54, under heading D), but Plaintiff’s equal protection claim is not against Defendant Spiro, it is against other defendants, the State Bar and its personnel, defendants who are governmental actors and thus subject to equal protection laws, In any event, it is difficult to tell if that really is an exception, because even there Plaintiff does not mention the principle of prejudicial or reversible error and does not request reversal.

⁴ In his brief, the word “prejudice” is only in the phrases “dismissed with prejudice” and “dismissed without prejudice,” and in stating the rule of *Foman v. Davis*, 371 U.S. 178, 182 (1962) that in reviewing a denial of leave to amend, courts consider factors such as bad faith, undue delay, prejudice to the opposing party, repeated failure to cure deficiencies, and futility. Prejudicial error is also called reversible error. In Plaintiff’s brief, the word “reversible” does not appear at all.

Rather than face the requirement of prejudicial error, Plaintiff nitpicks at the edges of District Court’s decisions. For example, he insists, with no supporting authority, that the Court was required to “analyze” his 186-page “Corrected Proposed Fifth Amended Complaint.” Plaintiff argues in his brief (page 26, beneath heading A):

“Under *Foman and Rosenwald*, the appropriate course was to consider the proposed amendment, not to dismiss with prejudice without analysis. [¶] The dismissal order mentioned Hill’s motion to amend but did not analyze the Corrected 5AC’s new allegations”.

Plaintiff even argues that the District Court erred in its final dismissal order because it didn’t say “28 U.S.C. 1367(c),” even though that statute is the only one that could have applied to the dismissal. Plaintiff writes:

“The final order dismisses state claims ‘without prejudice and without leave to amend.’ The post-judgment order references lack of diversity and the ability to refile, which **possibly sounds like a § 1367(c) declination**; but the orders never clearly say so.” [Brief, p. 41, last paragraph, *emph. added.*]

Yet Plaintiff does acknowledge the following facts:

“The judgment states that the RICO claim is dismissed with prejudice and the ‘remaining state law claims are dismissed without prejudice ... The post-

judgment order notes that ... absent a viable federal claim, the court ‘has no jurisdiction’ ...” [Brief, p. 15, last paragraph.]

That is precisely the grounds for dismissal in 28 U.S.C. 1367(c),⁵ yet Plaintiff argues that the judgment is defective because it didn’t say “28 U.S.C. 1367(c).”

With regard to Plaintiff’s cavil that the Court did not “analyze” the **Corrected Fifth** Amended Complaint’s new allegations, how was the District Court supposed to do that? How could the Court even identify the differences between the 191-page **Proposed** Fifth Amended Complaint and the 186-page **Corrected Proposed** Fifth Amended Complaint? It is true that pursuant to the Court’s order Plaintiff had filed a redline comparing the **Fourth** Amended Complaint with the **Proposed** Fifth Amended Complaint. (Docket, 6-ER-83, at ECR 318). But that redline was rendered useless when, **three days** after Plaintiff filed the **Proposed** Fifth Amended Complaint, he filed the **Corrected Proposed** Fifth Amended Complaint. There is no redline of the **Corrected Proposed** Fifth Amended Complaint.

Not only that, there is no authority that a district court must, in an order dismissing one complaint, include an “analysis” of a new proposed complaint filed

⁵ 28 U.S.C.(c) reads as follows, *emph. added*:

(c)The district courts may decline to exercise supplemental jurisdiction over a claim under subsection (a) if ... (3) **the district court has dismissed all claims over which it has original jurisdiction....**

while the motion to dismiss was pending, much analyze two such new proposed complaints.

Also, any absence of analysis of plaintiff's new proposed complaints could not be grounds for reversal. As the Ninth Circuit held in *Applied Underwriters, Inc. v. Lichtenegger*, 9913 F.3d 884, 892 (9th Cir 2019): "the decision of a lower court ... must be affirmed if the result is correct although the lower court relied upon a wrong ground or gave a wrong reason.". Because a district court must be affirmed when it gives a wrong reason for a decision, it also must be affirmed when it does not state a reason.

Plaintiff also contends: "The order contained no analysis of futility, bad faith, delay, or prejudice" in granting or denying leave to amend. (Brief, p. 31, 2nd para.) Again, any absence of such analysis could not be grounds for reversal, because the Court must be affirmed even though it does not discuss its reasons.

Plaintiff also launches a thoroughly mistaken attack on a fundamental principle of diversity jurisdiction, that the determination of diversity is established at the outset of the case and cannot be changed on grounds that a party moved to a different state during the case. Plaintiff states: "Consistent with 28 U.S.C. § 1653 and Rule 15(a)(2), the district court at least had to address whether the Corrected 5AC's new jurisdictional and factual allegations cured any defect; it could not simply invoke the time of filing rule [of diversity jurisdiction] and treat jurisdiction

as frozen by the original complaint while ignoring those proposed curatives.”
(Brief, pp. 43-44.) (Plaintiff’s attack is at pp. 42-47 of his brief.) Plaintiff cites no authority for such a contention, because there is none.

**IV. A DISTRICT COURT’S DECISION CANNOT BE REVERSED ON
THE GROUNDS THAT THE COURT’S REASONING OR GROUNDS
OF DECISION WAS INCORRECT, UNLESS THE DECISION
ITSELF WAS INCORRECT.**

As noted above, the Ninth Circuit quoted the Supreme Court as follows in
Applied Underwriters, Inc. v. Lichtenegger, supra:

“[I]n reviewing the decision of a lower court, it must be affirmed if the
result is correct although the lower court relied upon a wrong ground or gave
a wrong reason.” [9913 F.3d at 892. Internal citations and quotation marks
omitted.]

(Accord, *In re Montano*, 501 B.R. 96, *113 (9th Cir. B.A.P., 2013): “To the extent
that Montano sought relief in the bankruptcy court under the wrong Rule, it was
harmless error.”)

Moreover, as shown below, the District Court was correct in dismissing
without leave to amend.

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V. THE DECISIONS OF THE DISTRICT COURT WERE CORRECT.

A. THE DISTRICT COURT’S FINAL DECISIONS:

The District Court’s final decision consists of the Judgment (1-ER-10) and the August 20, 2025 Order Accepting In Part Magistrate Judge’s Report And Recommendation (1-ER-11 *et seq.*). The Judgment reads:

“[t]he Fourth Amended Complaint in this matter is dismissed in its entirety.

The federal RICO claim is dismissed with prejudice, and the remaining state law claims are dismissed without prejudice and without leave to amend.” [1-ER-10, lines 22-25]”

The particulars behind the judgment are shown in the Court’s August 20, 2025 Order Accepting In Part Magistrate Judge’s Report And Recommendation (1-ER-11, p. 12, ln. 15 to p. 13, ln. 4).⁶ That August 20, 2025 Order reads as follows (1-ER-11, p. 12, ln. 15 -- p. 13, ln. 4, emphasis in original):

1. The Report and Recommendation is accepted, with the modification noted in No. 9 below.

2. Plaintiff’s Motion to strike (ECF 303) is **denied as moot**.

⁶ In this brief, in some citations to the Excerpts of the Record -- for example “1-ER-11, p. 12, ln. 15” -- the first page number, here “11,” refers to the first page of the document. That number is included so that this Court can readily verify the identity of the document.

3. Plaintiff's Motion to file a surreply in response to Defendants' Oppositions to his Motion to amend the Fourth Amended Complaint (ECF 323) is **granted**.

4. Plaintiff's Request for Clarification (ECF 355) is **denied as moot**.

5. Defendant Spiro's Requests for judicial notice (ECF 263, 273, 278, 296) are **denied**.

6. Plaintiff's Requests for judicial notice (ECF 276, 290, 301, 329) are **denied**.

7. Plaintiff's Motion to amend the Fourth Amended Complaint (ECF 310, 330) is **denied**.

8. Defendants' Motions to dismiss (ECF 263, 270) are **granted in part**, to the extent that they seek dismissal for failure to state a claim.

9. The Fourth Amended Complaint is **dismissed with prejudice as to the federal RICO claim and dismissed without prejudice and without leave to amend as to the remaining state law claims**.

10. The Court Clerk shall serve this Order and the Judgment on all counsel or parties of record.

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B. THE COURT CORRECTLY DISMISSED THE CASE.

1. THE COURT CORRECTLY DISMISSED THE RICO CLAIM WITH PREJUDICE.

The RICO claim was dismissed with prejudice in the District Court’s August 20, 2025 Order Accepting In Part Magistrate Judge’s Report and Recommendation (1-ER-11, p. 13, lns. 2-4). The Report and Recommendation it refers to is the Magistrate Judge’s July 22, 2025 Report And Recommendation, which is 1-ER-14 *et seq.*

The RICO claim was properly dismissed. To demonstrate that, it is sufficient to quote from the discussion of the RICO claim in that Report and Recommendation. The RICO discussion therein is as follows:

“A civil cause of action under RICO must allege: “(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity (known as ‘predicate acts’) (5) causing injury to plaintiff’s ‘business or property.’” *Living Designs, Inc. v. E.I. Dupont de Nemours and Co.*, 431 F.3d 353, 361 (9th Cir. 2005) (internal citation omitted). Civil RICO claims premised on fraud must comply with Federal Rule of Civil Procedure 9(b)’s requirement that fraud claims be stated with particularity. *Edwards v. Marin Park, Inc.*, 356 F.3d 1058, 1065-66 (9th Cir. 2004); see also Fed. R. Civ. P. 9(b). Plaintiff must “state the time, place, and specific content of the false representations

as well as the identities of the parties to the misrepresentation” to avoid dismissal under that standard. *Alan Neuman Productions, Inc. v. Albright*, 862 F.2d 1388, 1392-93 (9th Cir. 1988). ...

[1-ER-14., p.24, lns.13-23.]

“Plaintiff fails to state a RICO claim under these standards because the conduct alleged does not fit any definition of a racketeering act.

Congress has enumerated the predicate acts that may form the basis for a RICO claim in U.S.C. § 1961(1). That definition includes mail and wire fraud, which Plaintiff principally relies on.⁵ Plaintiff alleges three general categories of conduct that he argues constitutes mail or wire fraud: (1) transmission of inaccurate academic transcripts; (2) misrepresentations about the institution of PCL made by PCL’s administrators; and (3) coercive billing practices. [1-ER-14, p. 25, lns. 1-8.]

“The elements of mail fraud and wire fraud are essentially the same: Plaintiff must show (1) a scheme to defraud; (2) the use of either mail or wire to further the scheme; and (3) the specific intent to defraud. *United States v. Brugnara*, 856 F.3d 1198, 1207 (9th Cir. 2017). While Plaintiff presents several wire-fraud or mail-fraud theories, none of the allegations withstand scrutiny. [1-ER-14., p.25, lns.11-15.]

“1. Transcript discrepancies

“Plaintiff alleges that his transcripts never accurately reflected the class hours that he had completed at PCL [defendant Peoples College of Law]. ... The fact that Plaintiff’s transcripts contained inaccuracies does not alone amount to an allegation of mail or wire fraud. Instead, Plaintiff must allege facts giving rise to the inference that those inaccuracies were part of a scheme to defraud, undertaken with the specific intent to defraud. If Defendants acted “on a belief or an opinion honestly held” about the correctness of the transcripts, such action “is not punishable under [the wire fraud] statute merely because the belief or opinion turns out to be inaccurate, incorrect, or wrong.” *United States v. Amlani*, 111 F.3d 705, 717 (9th Cir. 1997). Nor do “errors in management” rise to the level of an intent to defraud. *Id.* [1-ER-14., p.25, ln.17 – p.25, ln. 5.]

“Here, Plaintiff does not plausibly allege that any Defendant intentionally provided him with false transcripts, let alone that it was part of a scheme to defraud him or anyone else. Worse than that, the exhibits Plaintiff attaches to the Fourth Amended Complaint—the ones his complaint points to as making out his wire and mail fraud claim (see FAC ¶¶ 107, 112)—suggest the opposite. One is an April 2022 email exchange between PCL administrators and the State Bar of California. (FAC Ex. 9 at 174-76.)

In it, PCL administrators attempted to explain how they had decided to award credits, and the State Bar explained why it believed PCL's accounting was faulty. That exchange strongly suggests that PCL did not understand how to properly award credits but does not give rise to an inference that anyone intentionally falsified records with the intent to defraud. [1-ER-14., p.26, lns.6-17.]

“A second email exchange from August 2021, between Defendant Spiro and Nancy Popp, another PCL student, is similar. (FAC ¶ 107; FAC Ex. 1 at 74-83) That email ... reflects Spiro soliciting feedback about how to fix the existing transcript of a student who was apparently trying to transfer out. It also reflects that Spiro received instructions from the State Bar not to do anything to change credit hours on transcripts without their approval. (FAC Ex. 1 at 74.) [1-ER-14., p.26, lns.18-24.]

“Plaintiff has pointed to these communications as satisfying the requirement that he identify the particular contents of false representations evidencing a scheme to defraud or intent to defraud. But neither fits the bill: they highlight the extent of PCL's record-keeping incompetence but hardly give rise to an inference of malevolence. [1-ER-14., p.26, ln. 25 – p.26, ln. 2.]

“Plaintiff points to a handful of other documents, but they do not help his case. A November 9, 2022, letter from Defendant Spiro to the State Bar does not reflect an intent to provide inaccurate transcripts: that communication concerned issues related to Plaintiff’s fourth year of study. (See FAC ¶ 119 X-ER-X, ECF 199 at 75-81.) And a June 17, 2022, communication from a program analyst for the State Bar of California acknowledges Plaintiff’s transcripts were “disputed and incomplete,” but acknowledgement of discrepancies does not give rise to an inference that those discrepancies were intentional or that they were made as part of a scheme to defraud. (See FAC ¶ 118.) [1-ER-14., p.27, lns.3-11.]

“Beyond that, Plaintiff’s only other allegation is that his attempts to get an accurate transcript were “obstructed” by Defendants ... (FAC ¶ 37.) That allegation is conclusory and thus insufficient to support Plaintiff’s claims. [1-ER-14., p.27, lns.12-15.] ***

“Plaintiff’s basic explanation of this scheme is illogical. He says that Defendants manipulated transcripts “to conceal PCL’s institutional failures.” (FAC ¶ 112.) That allegation is undermined by the two exhibits, incorporated into the pleading, indicating that Defendants began communicating with the State Bar about these transcript discrepancies very quickly after the problem

was brought to the school’s attention. (See FAC Ex. 1 at 74-83; Ex. 9 at 172-76.) [1-ER-14., p.28, lns.1-7.]

“Moreover, it is unclear how intentionally providing less credit to students would possibly facilitate a cover-up of institutional failures. That allegation simply makes no logical sense. Plaintiff says that the scheme was undertaken to “mislead students . . . about the legitimacy of their earned credits” (FAC ¶ 113) but, again, it is difficult to understand how such a scheme would have worked. [1-ER-14., p.28, lns.8-13.]

“The most plausible allegation Plaintiff makes is that under-crediting course hours would have made it difficult for students to transfer out (FAC ¶ 86), because it would have appeared that they had less credit hours than they had in fact completed. But a lost opportunity to transfer schools is hardly a concrete injury required to pursue a RICO claim. *Chaset v. Fleer/Skybox Int’l, LP*, 300 F.3d 1083, 1087 (9th Cir. 2002) (to meet RICO’s requirement of an injury to his business or property, Plaintiff must allege a “concrete financial loss” not “mere injury to a valuable intangible property interest”). Even if it were, Plaintiff does not make any non-conclusory allegation about this lost opportunity; he does not allege that he attempted to transfer and was unable to do so because of his transcript, or that he had specific reason to think his transcript would prevent him from doing so. Finally, Plaintiff does

not articulate any theory of a concrete financial loss proximately caused by his inability to transfer See *Canyon Cnty v. Syngenta Seeds, Inc.*, 519 F.3d 969, 972 (9th Cir. 2008) (to state a RICO claim, the injury must be proximately caused by a RICO predicate act). [1-ER-14., p.28 ln. 14 - p.29, ln 2.]

“2. Misrepresentations about PCL’s status

“Plaintiff also alleges that ... Defendants ... “systematically” disseminated false statements about PCL’s bar passage rates, accreditation status, and financial solvency. ... it is unclear when the communications occurred, what misrepresentations were made in individual communications, who made the communications, or what the intent was behind any of those communications. Such generalities do not comply with Rule 9, which requires “the time, place, and specific content of the false representations as well as the identities of the parties to the misrepresentation.” *Schreiber Distribg. Co. v. Serv-Well Furniture Co., Inc.*, 806 F.2d 1393, 1401 (9th Cir. 1986). Without more, it is also impossible for the Court to evaluate whether the miscommunications were the product of an intent to deceive, rather than accidental or the result of incompetence, and whether any of those statements ... injured Plaintiff. As such, Plaintiff’s allegation is insufficient to establish mail or wire fraud. [1-ER-14., p.29, lns.8-24.]

“3. Issues surrounding Plaintiff’s tuition and PCL’s billing practices

“Plaintiff ... alleging that Spiro “knowingly engaged in misrepresentations regarding Plaintiff’s tuition payments and credit arrangements.”

(FAC ¶ 84; FAC Ex. 5.) Plaintiff incorporated into his pleading an email from Spiro outlining the proposed arrangement: Plaintiff would work for PCL for a limited time and a maximum payout of \$600, which would be credited toward his outstanding tuition. (FAC Ex. 5 at 127.) He also points to an email ... over two years later—in which Plaintiff claims he was never paid for his work. (FAC Ex. 5 at 132.) Plaintiff makes no allegations ... why payment was not credited to his account, and who was responsible. Without more, this allegation does not meet Rule 9(b)’s standard: Plaintiff has not provided the “who, what, when, where, and how” of this alleged fraud. See *Vess v. Ciba-Geigy Corp. USA*, 317 F.3d 1097, 1106 (9th Cir. 2003). Nor has he alleged that this billing error was somehow part of a *pattern* of deceptive practices. [1-ER-14., p.30, lns.1-18, italics in original.]

“Plaintiff alleges ... coercive billing practices. The closest he comes to a specific allegation ... is where he alleges that PCL continued its attempts to collect tuition from him even as it failed to provide coursework that would permit him to finish his fourth year of schooling. (FAC ¶ 37.) Such allegations do not make out a claim of fraud or extortion. There is no

fraud claim because Plaintiff does not allege that he was deceived about PCL's inability to provide fourth-year classes; in fact, he was informed of the problem the summer before his fourth year (FAC ¶ 37.) Nor is there a viable extortion claim because there is no allegation that anyone used any wrongful use of force or fear to attempt to collect that debt. ... *Rothman v. Vedder Park Mgmt.*, 912 F.2d 315, 317 (9th Cir. 1990) (...both the California and federal definitions of extortion use similar formulations involving wrongful use of force, violence, or fear). [1-ER-30 ln. 9 - p.31, ln 13.]

“For these reasons, Plaintiff fails to allege racketeering activity—let alone a pattern of such activity. His attempt to state a RICO claim therefore fails. [1-ER-14., p.31, lns.14-15.]”

2. THE COURT CORRECTLY DISMISSED THE STATE LAW CLAIMS WITHOUT LEAVE TO AMEND.

After the dismissal of the RICO claim, no federal claim remained. Thus, the District Court withdrew supplemental jurisdiction over the state law claims. It dismissed the state law claims without prejudice to filing them in state court, **but without leave to amend.** (1-ER-11, ¶ 9, p. 12, lns. 2-4.)

The District Court was quite right in dismissing the state law claims without leave to amend. Plaintiff had filed five complaints -- the initial complaint and four

amended complaints. He also submitted two more amended complaints in motions to amend, which were denied. In these seven complaints, Plaintiff demonstrated a striking obstreperousness in refusing to amend his complaints to cure defects – defects the District Court not only pointed out, but took pains to explain to Plaintiff in the several Reports and Recommendations.

Yet Plaintiff persisted in filing, over and over again, largely unintelligible complaints, whose length can fairly be described as gruesome. His initial complaint was 440 pages long. (1-SSER-221.)⁷ As to the first amended complaint, the District Court had this to say:

“Hill’s FAC—though substantially shorter than the original Complaint—is still prolix, rambling, and excessively long at 75 pages. Furthermore, the FAC still exhibits the landmarks of ‘shotgun pleading’: not only does it tend to lump all the Defendants together at various points, but it also realleges and reincorporates by reference all preceding paragraphs—irrespective of their relevance—at the beginning of each enumerated Count. The FAC is not a ‘short and plain’ statement of Hill’s claims. Its allegations are far from ‘simple, concise, and direct.’ Fed. R. Civ. P. 8(d)(1). Thus, the FAC violates

⁷ SSER citations are to Defendant Spiro’s Supplemental Excerpts of the Record. To lessen the number of pages in these excerpts, many pages of some of Plaintiff’s extremely long complaints are deleted, where the particular complaint is included in the excerpts only to show the length of the complaint. As to the initial complaint, the excerpts contain the first 18 pages, rather than the title page alone, to show that the title page continued for 17 more pages, another marker of Plaintiff’s verbosity.

Rules 8(a) and 8(d)(1) and is subject to dismissal on that basis alone.”

[Minute order of 6/7/23, 1-SSER-35-44, omitting internal citations and FAC page number references.]

Plaintiff followed with a 190-page Second Amended Complaint. (1-SSER-249) The Third Amended Complaint is 148 pages. (1-SSER-251) The First Amended Complaint is 181 pages (3-ER-54-254).⁸

Plaintiff also submitted for filing a 186-page “Corrected Proposed Fifth Amended Complaint” (2-ER-51-236). It contained exhibits written by Plaintiff in two or three languages other than English (2-ER-195-196, 199-200, 217-218).

Given all this (and worse, as detailed below), the District Court’s denial of further leave to amend after the Fourth Amended Complaint was virtually compelled by the Supreme Court’s decision in *Foman v Davis*, 371 U.S. 178, 182 (1962), cited in Plaintiff’s brief no less than 19 times. *Foman* held that, although in general leave to amend should be freely given, not so when there are “apparent or declared reasons for denying leave,” such as “repeated failure to cure deficiencies by amendments previously allowed.”⁹

⁸ For the Second Amended Complaint and the Third Amended Complaint, the excerpts contain only the first and last pages, to show their lengths.

⁹ The full quotation is: “Rule 15(a) declares that leave to amend ‘shall be freely given when justice so requires’; this mandate is to be heeded. See generally, 3 Moore, Federal Practice (2d ed. 1948), 15.08, 15.10. If the underlying facts or circumstances relied upon by a plaintiff may be a proper subject of relief, he ought to be afforded an opportunity to test his claim on the merits. In the absence of any apparent or declared reason—such as undue delay, bad faith or dilatory motive on the part of the movant,

Plaintiff inundated District Court with what the Supreme Court condemned – a “failure to cure deficiencies by amendments previously allowed.” (*Foman, supra*, 371 U.S. at 182.) Consider these particulars:

- Plaintiff filed his initial Complaint on February 20, 2023. (Docket, 6-ER- 45)
- Eleven days later, on March 3, 2023, he filed 18 exhibits. (Docket, 6-ER- 44)
- On April 5, 2023, the initial Complaint was dismissed with leave to amend.

(Docket, 6-ER-45)

- On April 18, 2023 Plaintiff filed his First Amended Complaint. (Docket, 6-ER-45)

- On May 5, 2023 Plaintiff filed a motion for leave to supplement his First Amended Complaint. (Docket, 6-ER-46)

- On June 7, 2023 the Court denied the motion and dismissed the First Amended Complaint with leave to amend within 21 days. (Docket, 6-ER-46)

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repeated failure to cure deficiencies by amendments previously allowed undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.—the leave sought should, as the rules require, be ‘freely given.’ Of course, the grant or denial of an opportunity to amend is within the discretion of the District Court, but outright refusal to grant the leave without any justifying reason appearing for the denial is not an exercise of discretion; it is merely abuse of that discretion and inconsistent with the spirit of the Federal Rules.”

- On August 5, 2024,¹⁰ the Court dismissed the second amended complaint with leave to amend. (Docket, 6-ER-64.) The dismissal was based on the April 23, 2024 Report and Recommendations of the Magistrate Judge, which stated:

“The 121-page SAC, like the First Amended Complaint (see ECF 45 at 8-9 (discussing same)), is **excessively long and often confusing**. Indeed, the SAC is almost **fifty pages longer than the First Amended Complaint—a complaint that the District Judge described as excessively prolix**.

Moreover, despite the District Judge’s prior warnings, the SAC continues to exhibit the landmarks of a ‘shotgun pleading.’” [1-SSER-4, 2nd paragraph, *emph. added.*]

- On August 21, 2024, Plaintiff filed a Third Amended Complaint. (Docket, 6-ER- Y-Y.)
- On March 27, **2025**, the Court dismissed the Third Amended Complaint, with leave to amend some claims, without leave as to others. (1-ER-40-42.)

The dismissal was based on another Report and Recommendation of the Magistrate Judge, dated Feb. 12, 2025 (1-SSER-1, p.), which stated:

“Plaintiff has had five chances to state his claims, and, as to the majority of his claims, the Court is unconvinced that Plaintiff will be able to plead additional

¹⁰ The cause of the long gap between June 2023 and August 2025 is that the entire case was dismissed on the grounds that Plaintiff had failed to amend within the 21 days the court had given him in the June 7, 2023 order. Then there were months of proceedings concerning the dismissal and the eventual reopening of the case.

factual allegations that would give rise to a federal cause of action.” [1-SSER-4, Ins. 5-7.]

- The next day, March 28, Plaintiff filed a motion for reconsideration of the March 27 dismissal order (Docket, 6-ER-76.)
- On March 31, Plaintiff filed his Fourth Amended Complaint. (Docket, 6-ER-76.)
- On April 1, 2025, Plaintiff filed a “Notice of Errata re Plaintiff’s Fourth Amended Complaint” (Docket, 6-ER- 76.)
- On April 1, 2025, Plaintiff filed another Fourth Amended Complaint (Docket, 6-ER- 76.)
- On April 1, 2025, Plaintiff filed a “Corrected Notice of Errata Regarding Plaintiff’s Fourth Amended Complaint” (Docket, 6-ER- 77.)
- On April 3, 2025, Plaintiff filed a “Corrected Notice of Errata Regarding Plaintiff’s Fourth Amended Complaint” (Docket, 6-ER- 77.)

Under *Foman* and other cases The District Court was more than justified in dismissing without leave to amend. For example, the Ninth Circuit held in *Mir v. Vosberg*, 646 F.2d 342, 347 (9th Cir. 1990):

“[T]he dismissal of plaintiff's amended complaint came after several years of proceedings. At some point, a party may not respond to an adverse ruling by

claiming that another theory not previously advanced provides a possible grounds for relief and should be considered.”

Similarly, in *Daniels v SCME Mortgage Bankers, Inc*, 680 F.Supp.2d 1126 (C.D. Cal. 2010), the court refused to allow the plaintiff to file a third amended complaint:

“Plaintiff has already had three chances at drafting the Complaint. The Court specifically put Plaintiff and his counsel on notice that Plaintiff's Second Amended Complaint needed to comply with the basic Rule 11 requirements Rather than heeding the Court's clear advice ... Plaintiff instead has filed a legally inadequate Second Amended Complaint. In short, Plaintiff had his chances and failed.”

(680 F.Supp.2d at 1130.)

Likewise, in *Allen v. City of Beverly Hills*, 911 F.2d 367 (9th Cir. 1990) the Ninth Circuit affirmed a dismissal without leave to file a fourth amended complaint:

“Allen next contends ... the district court erred when it dismissed his action without allowing him leave to file a fourth complaint.

“[E]ven if we believed Allen's new arguments might not be futile, we would not reverse the district court. ... a district court does not abuse its discretion

in denying a motion to amend a complaint ... when the movant... and provided no satisfactory explanation for his failure to fully develop his contentions originally.’ ... We therefore conclude that the district court did not abuse its discretion in denying Allen leave to amend.”

(911 F.2d at 373, 374, internal citations and quotation marks omitted.)

Another apt example a of a well-justified dismissal with prejudice after multiple complaints is *Shakespeare v Wilson*, 40 F.R.D. 500 (S.D. Cal. 966):

“Plaintiff originally filed fragmentary papers ... these fragmentary papers were ordered stricken on the ground that no plain and simple statement was set forth therein as required by Rule 8. Plaintiff filed a new amended complaint. This was again ordered stricken ... again for repeated violation of Rule 8. In said Order the Court said:

‘This complaint comprises a single continuous document, running 61 pages, exclusive of the prayer. ... The same defects which affected the old pleadings are duplicated in the new. There is still much evidential and irrelevant matter, including observations, conjectures and inferences personal to the Plaintiff. There is also much unnecessary history and background interwoven in an unclear and disconnected way among nineteen separate “causes of action.” Neither the nature of the “rights” of which Plaintiff has been allegedly deprived, nor the

precise events resulting in such an alleged deprivation, are set forth plainly and simply as the Federal Rules require. The various roles played by the sixty-four defendants named, and the connection which the acts of these defendants bears to the rights of Plaintiff, must be in sharper focus if any among these defendants are to be required to answer the allegations set forth therein. It is impossible to understand the nature of Plaintiff's claims.'

"The Court then afforded Plaintiff thirty days further within which to file a second amended complaint. ... the Order further provided:

'Such Second Amended Complaint shall consist of a short and plain statement of her claim or claims, each averment of which is simple, concise and direct. Said Second Amended Complaint shall not include evidentiary matter, personal conjecture or claims of any other person beside Plaintiff herself. It shall, as to each defendant, allege what specific acts said defendant did in furtherance of the alleged broad conspiracy. In referring to court proceedings (a great number of which are apparently involved) Plaintiff shall in each instance specify which proceeding, its title and case number, its nature and the specific order or adjudication alleged to have deprived Plaintiff of some right and the specific nature of the right.

‘If Plaintiff ... again files an amended complaint which does not comply with this Order, the Court will enter a dismissal of the action without further leave to amend.’ ...

“She [Plaintiff] has flagrantly disregarded every requirement which the Order specifies as to the form of the pleading. The Court, under such circumstances, is not required to wait for motions of dismissal before dismissing the action with prejudice.”

(40 F.R.D. at 505-506.)

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“Plaintiff has already had three chances at drafting the Complaint. The Court specifically put Plaintiff and his counsel on notice that Plaintiff's Second Amended Complaint needed to comply with the basic Rule 11 requirements Rather than heeding the Court's clear advice ... Plaintiff instead has filed a legally inadequate Second Amended Complaint. In short, Plaintiff had his chances and failed.”

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“Allen next contends ... the district court erred when it dismissed his action without allowing him leave to file a fourth complaint.

“[E]ven if we believed Allen's new arguments might not be futile, we would not reverse the district court. ... a district court does not abuse its discretion in denying a motion to amend a complaint ... when the movant... and provided no satisfactory explanation for his failure to fully develop his contentions originally.’ ... We therefore conclude that the district court did not abuse its discretion in denying Allen leave to amend.”

(911 F.2d at 373, 374, internal citations and quotation marks omitted.)

Here, Plaintiff offers nothing to explain how his Proposed Fifth Amended Complaint or his Corrected Proposed Fifth Amended Complaint would cure the defects in the Fourth Amended Complaint -- because he cannot, at least not truthfully. Recall that the District Court criticized the first amended complaint as “excessively long at 75 pages...” (Minute order of 6/7/23, 1-SSER-35-44, the quotation omits internal citations and FAC page number references.) Both the Proposed Fifth Amended Complaint and the Corrected Proposed Fifth Amended

Complaint are much longer than 75 pages, and they are longer than the Fourth Amended Complaint. The Fourth Amended Complaint was 181 pages (3-ER-54-254). The Proposed Fifth Amended Complaint was 186 pages (1-SSER-45). The Corrected Proposed Fifth Amended Complaint was also 186 pages. (2-ER-51-236.)

Aside from the excessive and improper length of the Proposed Fifth Amended Complaint and the Corrected Proposed Fifth Amended Complaint, these proposed pleadings were replete with the other types of defects, discussed below.

**3. THE COURT WAS CORRECT IN NOT ALLOWING
PLAINTIFF TO FILE EITHER OF HIS PROPOSED FIFTH
AMENDED COMPLAINTS.**

Both the Proposed Fifth Amended Complaint and the Corrected Proposed Fifth Amended Complaint were not proper pleadings, and thus were not fit for filing. Both do exactly what *Shakespeare v. Wilson* criticized in dismissing with prejudice:

“There is still much evidential and irrelevant matter, including observations, conjectures and inferences personal to the Plaintiff. There is also much unnecessary history and background interwoven in an unclear and disconnected way ...” [40 F.R.D. at 506.]

Plaintiff's two proposed Fifth Amended Complaints have the same defects.

Some examples follow:

a. Irrelevant Matter, Observations, Conjectures And Inferences

Personal To Plaintiff, Unnecessary History And Background

- The Corrected Proposed Fifth Amended Complaint states that Plaintiff has a disability, which he does not describe. (Paragraphs 1, 66, 67, 99A(c), 137A(c), and 142(e.) But Plaintiff pleads no cause of action for disability discrimination. His sole cause of action for discrimination, which is under California's Unruh Act, mentions discrimination only on the grounds of race,¹¹ and possibly gender, but never disability [2-ER-213.].
- Plaintiff nowhere alleges he is from a disadvantaged background or had limited access to legal services.¹² Yet the Corrected Proposed Fifth Amended Complaint goes on about disadvantaged communities, including this in paragraph 36: "PCL actively recruited students from underrepresented communities, targeting individuals from disadvantaged backgrounds with limited access to legal services. The school's marketing, including statements on its website, emphasized advocacy for marginalized groups,

¹¹ Race is alleged in the following paragraphs of the Corrected Proposed Fifth Amended Complaint: 142.b., 151, 152, 154, 156 and ¶ 18 of Plaintiff's declaration at the end of the pleading.

¹² Plaintiff grew up with a parent who was a California attorney.
<https://apps.calbar.ca.gov/attorney/Licensee/Detail/79577>

while concurrently failing to address the institutional deficiencies identified by the CBE inspection and other grievances submitted by students.”

And paragraph 2.c. of Plaintiff’s Affidavit at the end of the Corrected Proposed Fifth Amended Complaint, avers at page 73: “The school’s misleading advertising and recruitment practices, which targeted vulnerable communities with promises of affordable legal education and social justice advocacy”.

- Plaintiff alleges he “was subsequently elected to serve on the Community Board and served as Secretary of the College.” (Corrected Proposed 5th Am. Compl., ¶ 49 [2-ER-64].) That undermines, rather than supports, Plaintiff’s claims of mistreatment.
- Plaintiff alleges that “In June 2020, Plaintiff was one of two PCL students, and the only African American in his cohort, to successfully pass the First-Year Law Students’ Examination (FYLSX).” (Corrected Proposed 5th Am. Compl., ¶ 50 [2-ER-64].) That, too, undermines, rather than supports, plaintiff’s claims of mistreatment.
- Even though Plaintiff passed the California Bar Exam on his first try, he alleges the following irrelevance concerning the State Bar: “The State Bar’s 2023 report, ‘Profiling the Outcomes of the FYLSX’ (Exhibit 3), established that prolonged education timelines significantly reduce the likelihood of bar

passage, particularly for African American males. Approximately nine in one hundred African American males who complete their first year at schools like PCL pass the FYLSX, resulting in a persistent ninety-one percent failure rate.” (Corrected Proposed 5th Am. Compl., ¶ 82 [2-ER-70].

- Even though Plaintiff lived in Los Angeles County the entire time he was a PCL student, he alleges “PCL failed to adhere to State Bar regulations by enrolling out-of-state students attending remotely”. (Proposed 5th Am. Compl., ¶ 86 [2-ER-71].)

b. Unclear, Disconnected Allegations

The Magistrate Judge said this about the Second Amended Complaint, which is equally true of the two Proposed Fifth Amended Complaints:

“These errors and others like them prevent any given Defendant from understanding exactly what Plaintiff alleges that Defendant did wrong. ... the SAC does not do what the District Judge instructed Plaintiff to do: ‘intelligently inform’ Defendants in this action—and this Court—who violated his rights, what facts show that his rights were violated, when the violations occurred, where they happened, and why he is entitled to relief.’ (See ECF 45 at 10.) Despite significant effort, **this Court is lost in a sea of events, meetings, and emails, without a clear understanding of how any**

of the allegations support Plaintiff’s claims. And each cause of action contains lists of facts, many of which have no relation to the cause of action under which they fall—making it impossible for the Court to test their legal sufficiency.” [1-SSER-208, lns. 12-23, emph. added.]

Some examples follow:

- As if deliberately trying to befuddle the reader, Plaintiff “incorporates” into the Corrected Proposed Fifth Amended Complaint, allegations from a **different** complaint, the Fourth Amended Complaint. And he incorporates a widely dispersed variety of paragraphs of the Fourth Amended Complaint.

“168. Plaintiff re-alleges and incorporates by reference each allegation contained in ¶¶ 33- 84, 88, 91, 102-120, 186-206, and 213-216 of the Fourth Amended Complaint.”

(This is in paragraph 168 of the Corrected Proposed Fifth Amended Complaint. (2-ER-100).)

- The Corrected Proposed Fifth Amended Complaint, paragraph 219 states:

“Plaintiff re-alleges and incorporates by reference all prior allegations contained in ¶¶ 1-220, **insofar as they establish the Defendants' liability and the Plaintiff's entitlement to the remedies** sought herein. [Emph. added.]”

It is impossible to know what is incorporated and what is not, because the reader would have to analyze each of the 220 paragraphs Corrected Proposed Fifth Amended Complaint to try to determine which of them, if any, “establish[es] the Defendants' liability and the Plaintiff's entitlement to remedies”. And that likely would be uncertain even after even after reading the paragraphs.

- Paragraph 210 of the Corrected Proposed Fifth Amended Complaint incorporates itself: “Plaintiff hereby re-alleges and incorporates by reference each allegation contained in ¶¶ 35-210.” (Corrected Proposed 5th Am. Compl., ¶ 210.i. [2-ER-114].)

- Plaintiff seeks a “remedy” he describes as “A declaration of Plaintiff's ‘good faith’ indemnification,” But he does not explain what that could possibly mean. (Corrected Proposed 5th Am. Compl. (2-ER-113-114.)

- Plaintiff also seeks as a remedy “A statement of determination of PCL’s Board Election Validity under California Corporations Code section § 5716.” There is no Corporations Code §5716, and there was no such statute when Plaintiff wrote this. (The request for this “remedy” is at Corrected Proposed 5th Am. Compl. (2-ER-118)

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c. Duplication and Repetition

In the Corrected Proposed 5th Am. Compl., paragraphs 99A and 137A are exact duplicates of each other, even though they are in the same First Cause of Action. (2-ER-76-77, 98.)

C. THE DOCUMENTS PLAINTIFF SOUGHT JUDICIAL NOTICE OF WOULD DO NOTHING BUT COMPOUND PLAINTIFF’S ERRORS, AND COULD NOT HAVE CHANGED THE COURT’S DECISION TO DISMISS.

Plaintiff filed multiple requests for judicial notice. If granted, they would have added several hundred pages to the documents before the District Court, thus compounding his excessive burdening of the District Court.

Plaintiff states in his brief: “This appeal seeks a limited remand **so that the district court can (1) make exhibit-by-exhibit judicial-notice and incorporation rulings.**” (Brief, p. 1, 1st sentence, *emph. added*, also pp. 12, 13, 16, 19, 20, 21)

In other words, **Plaintiff wants this Court to go through the several hundred pages of documents he proposed for judicial notice.**

Why should the District Court have done all that work? Why should this Court do it? Plaintiff’s answer is: “the district court (1) handled judicial notice and

incorporation in a way that left unclear which documents and factual propositions underlay the Rule 12(b)(6) dismissal.”

But Plaintiff ignores that the District Court has discretion whether to take judicial notice. “Under subdivision [F.R.E. 201] (c) the judge has a discretionary authority to take judicial notice, regardless of whether he is so requested by a party.” (Notes of Advisory Committee on Proposed Rules, Fed. R. Evid. 201(c)(1), quoted in *Lawyers For Fair Reciprocal Admission v. Timmer*, 788 F.Supp.3d 1000, 1011 (D.Ariz., 2025).) Because Plaintiff ignores that the District Court had discretion in judicial notice, he makes no argument at all that the District Court abused its discretion in denying judicial notice. (His only abuse of discretion argument is about leave to amend.)

The only reason given in Plaintiff’s brief for this Court to order further judicial notice is that it will, according to Plaintiff, make appellate review easier. In other words, Plaintiff thinks that adding hundreds of pages of judicial notice documents will make appellate review easier. Here is the opening of the first sentence of argument in the brief, and below it the headings in his brief that pertain to judicial notice:

Plaintiff’s First Sentence: “This appeal seeks a limited remand so that the district court can (1) make exhibit-by-exhibit judicial-notice and incorporation rulings tied to the Rule 12(b)(6) analysis...” (Brief, p. 1)

Headings in Plaintiff's Brief:

“Judicial Notice and Record Clarity: The Rule 12(b)(6) dismissal rests on an undeveloped notice/incorporation record that impairs review” (p. 12)

“Cumulative Effect on Reviewability: In combination, these rulings leave the record opaque and prevent meaningful appellate review” (p. 16)

“The district court’s handling of judicial notice and incorporation left this Court without a clear, itemized record of the facts underlying the Rule 12(b)(6) dismissal.” (Heading I, p. 19.)

Thus, Plaintiff takes no heed of the District Court’s entitlement to discretion in its rulings on judicial notice. And the Court certainly did not abuse its discretion. One factor alone demonstrates that -- the enormous number of pages Plaintiff sought judicial notice of. The requests for judicial notice that Plaintiff includes in his Excerpts of the Record on Appeal are as follows:¹³

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¹³ Defendant Spiro does not include any requests for judicial notice in his Excerpts.

First	113 pages:	December 21, 2023 (5-ER-138-250) .
Second	81 pages:	November 15, 2024 (4-ER-97-177)
Third	93 pages	January 25, 2025 (4-ER-2-96) (Plaintiff also called it a Motion to Supplement the Record)
Fourth	20 pages:	April 23, 2025 (5-ER-21-40)
Fifth	18 pages:	June 13, 2025 (5-ER-3-20)

The First, Second and Third are excessively long. Though the Fourth and Fifth are not, denial of them cannot be grounds for reversal because the documents they sought judicial notice of could have no bearing on whether there is reversible error, as explained below.

1. Fourth Request for Judicial Notice

As to the Fourth Request for Judicial Notice, Plaintiff's reasons for it, according to his Fourth Request itself, were to show the following:

- *Plaintiff's Stated Reason for Judicial Notice*: "detailed admissions by Defendant Spiro regarding [PCL's] unresolved accreditation deficiencies, institutional recordkeeping practices, and proposed governance amendments". (1-ER-24) What Plaintiff means by "unresolved accreditation deficiencies, institutional recordkeeping practices and proposed governance amendments" is, simply stated, PCL's non-compliance with State Bar rules.

● *Plaintiff's Stated Reason for Judicial Notice:* "At the time of the events in question, Spiro was not a corporate officer or member of the board... Spiro states explicitly that the Dean was not recognized in the bylaws ... He conditioned further service in the Dean role on the passage of this amendment [to the PCL], which... was never ratified due to lack of a quorum... this document independently establishes that Spiro ... is not entitled to invoke California Corps. Code § 5047 immunity." (1-ER-25)

● *Plaintiff's Stated Reason for Judicial Notice:* "This document bolsters Plaintiff's contention that Spiro's claim to officer status was prospective only, and that Plaintiff by contract held an actual, active Board seat ... to rebut Spiro's efforts to invoke protections under Corporations Code § 5047(b)." (1-ER-25)

To capsulize, Plaintiff's stated reasons for the Fourth Request for Judicial notice are to show:

- a. PCL's non-compliance with State Bar rules.
- b. Defendant Spiro was not a PCL officer or board member for a period of time.
- c. Plaintiff was a PCL officer and Board member for a period of time.

None of that could have led the District Court to change its orders denying judicial notice, or could have caused the Court not to order the final dismissal of

the case. The grounds for the Court's orders denying judicial notice are fairly summarized as follows (and they are set out in full in the footnote):

1. Plaintiff failed to allege a RICO claim, and
2. Plaintiff should not have leave to try again with yet another amendment, because he filed five complaints and lodged two others, but none of them stated a RICO claim.¹⁴

As to Plaintiff's Reason A for judicial notice, PCL's non-compliance with State Bar rules,¹⁵ even if Plaintiff's judicial notice documents show non-compliance, the documents would be nothing more than cumulative. That is

¹⁴ The dismissal is in the August 20, 2025 Order Accepting In Part Magistrate Judge's Report And Recommendation. (1-ER-11.) That report (1-ER-14) recommended dismissing the only remaining federal law claim, the RICO claim, and declining to exercise supplemental jurisdiction over the remaining claims, which are state law claims.

The Magistrate Judge stated her reasons for the recommendations as follows (1-ER-14, p. 15, lns. 9-27):

"The Court agrees with Defendants that the Fourth Amended Complaint should be dismissed because it fails to plausibly allege a civil RICO claim ... he fails to allege any conduct that fits the definition of racketeering activity and proximately caused his injuries. Without those elements, he cannot state a RICO claim.

"While these Motions were pending, Plaintiff proposed another amended complaint, his seventh attempt to state a claim. That amendment, too, fails to fix the root problems in his case. The Court therefore recommends that leave to file the proposed amendment be denied.

"Finally, the Court recommends dismissing the Fourth Amended Complaint without leave to amend. Plaintiff has filed five complaints and has, along the way, proposed two additional complaints, none of which have plausibly alleged a federal claim. The Court is unconvinced that Plaintiff will be able to plead additional factual allegations that would give rise to a federal cause of action and thus recommends that no further leave to amend be granted."

¹⁵ This is what Plaintiff describes as "unresolved accreditation deficiencies, institutional recordkeeping practices and proposed governance amendments"

because PCL's non-compliance is shown in a two-page document that Plaintiff includes in his Excerpts of the Record, 5-ER-250-251. Its first paragraph reads:

“In a first-of-its kind move, the State Bar of California Committee of Bar Examiners (CBE) voted today to withdraw the registration and terminate the degree-granting authority of Los Angeles-based Peoples College of Law (PCL), effective May 31, 2024. PCL is a registered unaccredited law school with a history of compliance issues 15 years in the making. Despite repeated attempts by the State Bar to assist the school to come into compliance, PCL has been unsuccessful in achieving or sustaining a compliant program of legal education.”

Likewise, as to Reason B, that Defendant Spiro was not a PCL officer or board member for a period of time, the request for judicial notice is cumulative. That is because Plaintiff could have easily established that from a single page, the first page of the minutes of the January 17, 2021 PCL board meeting.

In addition, whether or not Spiro was a board member or officer is irrelevant to any issue in the case. As the Magistrate Judge's July 22, 2025 Report and Recommendation explained (1-ER-14, p.23, lines 16-27):

“Plaintiff also supplies exhibits intended to reflect Spiro's status at PCL (see ECF 276 at 7-8); like Spiro's exhibits on the same topic, they are irrelevant to the issues reached in this Report and Recommendation. [The issues in that

Report and Recommendation whether to dismiss the Fourth Amended Complaint with prejudice. (1-ER-14, p.34)] Other exhibits go to Spiro's knowledge or intent (see ECF 276 at 8-9); the Court would not take judicial notice of the truth of the representations made in those exhibits, and the existence of those documents is not relevant to any issue analyzed here.

...The requests for judicial notice (ECF 263, 273, 276, 278, 290, 296, 301, 329) should therefore be denied.”

As to Reason C, that Plaintiff was a PCL officer and board member, the request for judicial notice was cumulative because that fact is shown in the same January 17, 2021 minutes (5-ER-250-251).

2. Fifth “Request for Judicial Notice”

Plaintiff's Fifth Request for Judicial Notice, filed June 13, 2025 (5-ER-3-18, ECF 329) is not a request for judicial notice at all. It is entirely argument. It is a brief. The Magistrate Judge referred to it as “legal authority and arguments made in his opponent's brief (ECF 329).” (Report and Recommendation filed 7/22/25, 1-ER-14, p. 9, lns. 17-18.) As the Magistrate Judge pointed out, “No judicial notice is required for legal authority or arguments”. (1-ER-14, p. 23, lns.21-22.)

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D. THE COURT WAS CORRECT IN DENYING PLAINTIFF’S

F.R.C.P. 59(e) MOTION TO ALTER OR AMEND JUDGMENT.

Plaintiff’s arguments concerning his F.R.C.P. 59(e) motion to amend or alter judgment are in Section II of his brief, titled “The court abused its discretion by denying leave to amend without engaging the Corrected Fifth Amended Complaint’s curative allegations.” Specifically, the arguments are in the part of Section II titled “The court misapprehended the record: ‘attachment’ of ECF 313 is not a futility analysis”. The argument starts on page 32 of his brief, where Plaintiff argues as follows:

“The Rule 59(e) order treats the failure to analyze the Corrected Proposed Fifth Amended Complaint (ECF 313) as ‘harmless’ because the document was attached elsewhere. But attachment $\neq$ analysis. Under *Foman*, *Lopez*, and *Eminence Capital*, the court had to engage the new, curative allegations—dates, actors, regulator/school admissions, comparator and intent facts, and quantified harms—and explain why they still could not cure. It did not. ... [¶] ‘Attachment’ is not a futility finding.”

First, Plaintiff misrepresents the District Court’s order denying the Rule 59(e) motion. If, as Plaintiff claims, there was any “failure to analyze the Corrected Proposed Fifth Amended Complaint”, the Court did not give, as a reason any failure was harmless, that the document was “attached elsewhere.” The Court did

not give attachment of anything as a reason. Rather, **as to the Corrected Proposed Fifth Amended Complaint, the Court gave the following as the reason that any failure to consider it was harmless: the fact that in the proceedings below, Plaintiff did not dispute that the Court had considered it.** To quote the order on this point (1-ER-6, emph. added):

“Plaintiff argues that the Court considered only ECF 310 and 330, and not the Corrected Fifth Amended Complaint, ECF 313. This argument is without merit; Plaintiff’s Motion for Leave to File a Fifth Amended Complaint (ECF 330) attaches the Corrected Fifth Amended Complaint. (See ECF 330 at 10-195.) **Because Plaintiff does not dispute that the Court considered ECF 330,** the Court’s failure to reference ECF 313 specifically is harmless.

In other words, Plaintiff did not dispute that the Court considered his motion, and the Corrected Proposed Fifth Amended Complaint was part of the motion. When the District Court said it considered the motion, the Court certainly was not attempting to mislead, to imply that it had considered a part of the motion (the Corrected Proposed Fifth Amended Complaint) if the Court had not in fact considered that part.

Aside from the fact that Plaintiff’s argument mischaracterizes the District Court’s order, Plaintiff’s argument is incorrect. The best way to demonstrate that is to quote from that order denying Plaintiff’s 59(e) motion. The order explains that

while a district court must make a de novo review of the recommendations of a magistrate judge, “It is generally sufficient for courts to rely on the findings of a magistrate judge’s report and recommendation so long as it is clear the Court reviewed the record.” (1-ER-4, last paragraph.) The order continues (1-ER-5, first full paragraph):

“Here, the Court expressly indicated that it conducted de novo review. (ECF 358 at 1 (Order Accepting the Magistrate Judge’s Report and Recommendation stating that the Court ‘reviewed the Fourth Amended Complaint, the records and files herein, the Magistrate Judge’s Report and Recommendation, and Plaintiff’s Objections to the Report and Recommendation’ and that it ‘engaged in a de novo review of those portions of the Report and Recommendation to which objections have been made.’).)

Nothing more was required, and thus relief on this ground is not warranted.”

The District Court’s order also cited *United States v. Ramos*, 65 F.4th 427, 433-434 (9th Cir. 2023), which held as follows:

“[T]he district court ... indicated that it reviewed the record de novo, found no merit to Ramos’s objections, and summarily adopted the magistrate judge’s analysis in his report and recommendation. We have presumed that district courts conduct proper de novo review where they state they have done so, even if the order fails to specifically address a party’s objections).

[¶] the district court had no obligation to provide individualized analysis of each objection.”

The District Court’s order also cited *Holder v. Holder*, 392 F.3d 1009, 1022 (9th Cir. 2004). *Holder* quoted the Supreme Court in *United States v. Raddatz*, 447 U.S. 667, 676 (1980), as follows:

“[I]n providing for a ‘de novo determination’ rather than de novo hearing, Congress intended to permit whatever reliance a district judge, in the exercise of sound judicial discretion, chose to place on a magistrate's proposed findings and recommendations.”

The *Holder* opinion continued (p. 1022) with what was quoted by the District Court here:

“The district court expressly stated in its order that it adopted the magistrate judge’s recommendations only after having undertaken a de novo review of the record.... The district court’s approach fully complied with the statutory requirements in using the magistrate judge’s assistance in this case.”

The District Court’s order here also cited *North American Watch Corp. v. Princess Ermine Jewels*, 786 F.2d 1447, 1450 (9th Cir. 2023). There, the Court of Appeals began the discussion of the magistrate judge issue by stating the contention of one of the parties:

“[Defendants] contend that the district court abused its discretion in dismissing their counterclaims for failure to comply with discovery ... because the district court failed to conduct the required de novo review of the magistrate's report and recommendation.”

The Court of Appeals rejected this argument, holding:

“In reaching his conclusion in this case, the district judge noted that he had ‘reviewed the complaint, counter-complaints, all the records and files, ... and the ... Report and Recommendation of the United States Magistrate....’ The district court’s review satisfied the de novo review.” [Ellipses in original.]

In short, in the case at bar there is no doubt that the District Court’s decision to deny the Rule 59(e) motion was correct.

VI. CONCLUSION

Plaintiff entirely fails even to attempt to establish the prerequisite for reversal, prejudicial error. The District Court was entirely correct in its judgment and orders. The appeal should be denied.

Dated: December 22, 2025

“s/” *Ira Spiro*
Ira Spiro, Defendant

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

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APPELLEE'S SUPPLEMENTAL EXCERPTS OF THE RECORD

Signature *s/Ira Spiro*

Date December 23, 2025